



Public Notice

Public Notice No.
200400514

Date:
12 Aug 04

Closing Date:
13 Sep 04

US Army Corps of Engineers Louisville District

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mrs. Norma C. Condra, CELRL-OP-FN
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6680

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Mr. Dennis V. Owens
1104 N. 4th Street
Evansville, Indiana 47710

AGENT: Jon Kipling
Morley and Associates, Inc.
600 S.E. Sixth Street
Evansville, Indiana 47713-1222

LOCATION: The project is located south of the intersection of Rosenberger Avenue and Hogue Road, approximately 500 feet north of S.R. 62 (Lloyd Expressway) and west of the CSX Railroad, in Evansville, Vanderburgh County, Indiana.

Latitude: 37-58-47.2679
Longitude: 87-37-37.2747
7.5 Minute Quad: WEST FRANKLIN AND EVANSVILLE SOUTH,
INDIANA-KENTUCKY

PURPOSE: The purpose of the project is to develop a 44 acre commercial site for 3 proposed retail establishments and the proposed realignment of Carpentier Creek would provide increased hydraulic capacity.

DESCRIPTION OF WORK: The applicant proposes to fill approximately 1460 linear feet of Carpentier Creek (0.58 acres) and 0.48 acres of jurisdictional wetlands to realign Carpentier Creek eastward. The proposed new channel would be 1215' long by 60' wide, with a 5' by 3' deep flat bottomed permanent pool channel, which would be lined with 2250 cyds of rip rap over geotextile fabric. 11 rock check dams are proposed within the newly realigned channel. The proposed channel would be bridged to provide road access from Rosenberger Avenue to the parking lots for the retail establishments.

The applicant also proposes to realign 2 unnamed tributaries of

Operations Division
Regulatory Branch
ID No. 200400514

Carpentier Creek (see figure 4). The western unnamed tributary would be piped for 440' through a box culvert beneath Rosenberger Avenue southwesterly. This realignment would impact 229 linear feet (0.13 acres) of the western unnamed tributary. The eastern unnamed tributary would be piped through a box culvert approximately 325' south to a 15' flat bottom open channel for an additional 417'. This realignment would impact 487 linear feet (0.27 acres) of the eastern unnamed tributary.

Utility lines will be constructed as shown on the attached drawings, including a new sanitary sewer main upstream of the State Road 62 Bridge (a.k.a. Lloyd Expressway) (see figure 4).

The proposed project would impact 2176 linear feet of stream (1 acre) and 0.4766 acres of jurisdictional wetlands. The creeks and the wetlands are proposed to be filled with approximately 30,040 cubic yards of clean fill material, 500 cubic yards of B-Borrow fill material and 3500 cubic yards of rip rap.

SPECIAL NOTE: CONSTRUCTION WORK HAS ALREADY COMMENCED IN THE UPLANDS PORTION OF THE PROJECT SITE IN PREVIOUSLY DISTURBED AREAS.

MITIGATION: As mitigation for the stream impacts associated with this project, the applicant proposes to plant 4.80 acres of vegetated buffer on-site along the top of the west bank of the relocated Carpentier Creek channel, and a portion of the relocated western unnamed tributary of Carpentier Creek.

As mitigation for the wetland impacts associated with this project, the applicant proposes to create and/or restore 1 acre of emergent wetlands off-site, but within the Carpentier Creek drainage basin downstream of the proposed project site in an undisclosed location that is owned by the applicant.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

A DA Permit, if otherwise warranted, will not be issued until a State of Indiana Water Quality Certification or waiver is on file at this office. The applicant is responsible for obtaining the certification from the Indiana Department of Environmental Management (IDEM).

A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice may constitute the application for the 401 certification. IDEM will review

Operations Division
Regulatory Branch
ID No. 200400514

this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Management, Section 401 WQC Program, 100 N. Senate Av. Room 1255, P. O. Box 6015, Indianapolis, Indiana 46206-6015. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice or by other means, of specific archaeological, scientific, prehistoric, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 -Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the CWA.

Operations Division
Regulatory Branch
ID No. 200400514

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Mrs. Norma C. Condra, CEORL-OP-FN at the address noted above and should refer to the Public Notice Number 200400514.

Condra/OP-FN/wr/pn.wp
Shelton/OP-FN